

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY**

-----X Index No. _____
DANIEL LEWIS;

Plaintiff

v.

THE ROMAN CATHOLIC DIOCESE OF ALBANY,
NEW YORK, a religious corporation; NEW YORK
STATE OFFICE OF CHILDREN AND FAMILY
SERVICES; LASALLE SCHOOL; THE CHRISTIAN
BROTHERS, a.k.a. THE DE LA SALLE CHRISTIAN
BROTHERS, a.k.a. THE LASALLIAN BROTHERS,
a.k.a. THE FRENCH CHRISTIAN BROTHERS, a.k.a.
THE INSTITUTE OF THE BROTHERS OF THE
CHRISTIAN SCHOOLS, a.k.a. THE DE LA SALLE
BROTHERS; WILLIAM H. KEYES; AND FR.
JOSEPH R. ROMANO;

Defendants.

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COMPLAINT

JURY TRIAL DEMANDED

Plaintiff DANIEL LEWIS, by and through the undersigned counsel, upon information and belief, alleges as follows:

JURISDICTION AND VENUE

1. This Complaint arises from multiple sexual assaults of Plaintiff perpetrated by Charles Burrell (deceased) (starting in 1980 through 1981) and Defendants William H. Keyes (starting in 1980 through 1981) and Fr. Joseph R. Romano (starting in 1982 and continuing into 1983) when Plaintiff was approximately 13 – 17 years of age. These heinous acts of sexual abuse/sexual assault occurred while Plaintiff was a ward of the State of New York and a student at the LaSalle School in Albany, New York, and at times a resident of a foster care placement in the home of Charles Burrell and at other times a resident of the LaSalle School. The abuse consisted of molestation, genital fondling, digital penetration, masturbation, oral sex, anal rape,

and other types of sexual victimization by the perps against Plaintiff. The incidents with Charles Burrell, Defendant William H. Keyes and another boy occurred at the home of Charles Burrell where Plaintiff was placed in foster care. The abuse by Fr. Joseph R. Romano occurred at LaSalle School and in Fr. Romano's room in the church rectory near the LaSalle School.

2. Venue is proper because the Defendants Roman Catholic Diocese of Albany, New York, and LaSalle School have their principal places of business in Albany County.

3. The provisions of Section 1602 of the CPLR do not apply to the within action including nondelegable duty and/or the doctrine of *respondeat superior*.

4. Plaintiff brings this suit within the extended time period as provided for in Section 208 and 214-G of the Civil Practice Law.

5. Jurisdiction is proper because this Complaint seeks monetary damages in excess of \$25,000.00, exclusive of interest, costs and attorneys' fees.

PARTIES

6. Plaintiff is an adult resident of the State of New York and is otherwise *sui juris*.

7. Defendant The Roman Catholic Diocese of Albany, New York ("The Diocese of Albany" or "The Diocese"), is a Roman Catholic Diocese and is an unincorporated non-profit business entity licensed to and doing business in the State of New York with a principle place of business at 40 N Main Avenue, Albany, New York, 12203.

8. Defendant New York State Office of Children and Family Services ("OCFS") is a state agency serving children in the state of New York with a regional office in the Albany area located at 52 Washington Street, Rensselaer, New York, 12144.

9. Defendant Christian Brothers, a.k.a. the De La Salle Christian Brothers, a.k.a. the Lasallian Brothers, a.k.a. the French Christian Brothers, a.k.a. the Institute of the Brothers of the

Christian Schools, a.k.a. the De La Salle Brothers (“Christian Brothers”) is and at all times relevant was, a religious order of Catholic men, dedicated to educational outreach and ministry within the Catholic Church, with regional headquarters located at 442 NJ-35, Eatontown, New Jersey, 07724. Headquarters for the Christian Brothers Conference is located at 415 Michigan Ave. NW, #300, Washington, DC 20017.

10. Defendant LaSalle School is a school operated by the Christian Brothers. It is an unincorporated, non-profit business entity licensed to and doing business in the State of New York with a principle place of business at 391 Western Ave, Albany, New York, 12203.

11. Defendant William H. Keyes was employed by Defendants LaSalle School and Christian Brothers as the supervisor of the school’s prefects. In 1985 he was convicted of promoting a sexual performance by a child less than 16 years of age and was sentenced to 42 months to seven years in state prison. He currently resides in Albany, New York, and is a registered sex offender.

12. Defendant Fr. Joseph R. Romano was an ordained Roman Catholic priest employed by and an agent of Defendant Roman Catholic Diocese of Albany. Fr. Joseph R. Romano was ordained to the Ministry in 1966 and served as an employee and agent of Defendant Roman Catholic Diocese of Albany until 2003, when he was removed from the Ministry for allegations of sexual abuse.

13. From 1961-1962, Joseph R. Romano was a seminarian counselor at Camp Tekakwitha near Lake Luzerne, New York.

14. In 1966, Fr. Joseph R. Romano was ordained to the Ministry as a diocesan priest in Roman Catholic Diocese of Albany.

15. From 1967 through 1984, Fr. Joseph R. Romano was the chaplain for the Albany Fire Department.

16. From 1971 to 1973, Fr. Joseph R. Romano was a religion teacher at Cardinal McCloskey High School in Albany, New York.

17. In 1974, Fr. Joseph R. Romano was the assistant principal at Cardinal McCloskey High School in Albany, New York.

18. From 1974 to 1977, Fr. Joseph R. Romano was the pastor at St. Anne's parish in Albany, New York.

19. From 1977 to 1981, Fr. Joseph R. Romano was the pastor at St. Lucy's parish in Albany, New York.

20. From 1981 to 1984, Fr. Joseph R. Romano was the coordinator of religious education at the LaSalle School in Albany, New York.

21. From 1984 to 1999, Fr. Joseph R. Romano was the chaplain at the Green County Correctional Facility in Albany, New York.

22. In 2003, Fr. Joseph R. Romano was removed from the Ministry, following credible allegations of sexual abuse against children.

23. At all times material, Fr. Joseph R. Romano remained under the direct supervision, employ and control of Defendant Roman Catholic Diocese of Albany as a priest and/or teacher at the LaSalle School.

24. Plaintiff is presently unable to ascertain the identities and capacities of Defendants JOHN DOES 1-20 and, therefore, has named said Doe Defendants fictitiously; said Doe Defendants are in some manner presently unknown to Plaintiff, responsible for the injuries and damages described herein and/or are related to the named Defendants and are the teachers, agents,

representatives, subsidiaries, parent companies, employers, employees, partners, limited partners, joint venturers, insurers and/or independent contractors of the named Defendants and/or had duties of reasonable care to Plaintiff and the breach of one or more of the foregoing duties caused the injuries and damages described herein. Plaintiff will name said Doe Defendants when their identities and capacities are determined.

STATEMENT OF FACTS

25. Around 1979, when Plaintiff was approximately 14 years old, Plaintiff was removed from his biological family by OCFS and placed in the care of the Christian Brothers at the LaSalle School.

26. Working in cooperation, the LaSalle School and OCFS, placed Plaintiff in a foster home, using a pilot foster care program implemented by the school. Plaintiff was placed in the home of Charles B. Burrell who, on information and belief, was in charge of implementation of the pilot program as the residential supervisor for LaSalle.

27. While Plaintiff was in the care of Burrell, Burrell began to sexually abuse Plaintiff. Plaintiff recalls being awakened nearly every morning by Burrell sexually assaulting him by fondling Plaintiff's penis. On other occasions, Burrell had naked "wrestling matches" with Plaintiff and another boy under Burrell's care.

28. Burrell frequently forced Plaintiff to perform oral sex on him as well as engage in anal sex.

29. In addition to sexually assaulting Plaintiff himself, Burrell subjected Plaintiff to violent sexual assaults from Defendant William H. Keyes, a friend of Burrell's. On information and belief, Keyes was employed by the LaSalle School as a supervisor of the school's prefects.

30. When Keyes sexually assaulted Plaintiff, he would twist Plaintiff's arm behind

Plaintiff's back, pin Plaintiff to the floor and forcibly and violently rape Plaintiff. Keyes would also physically force Plaintiff to his knees and violently require Plaintiff to perform oral sex on him. There were other occasions when Keyes would make the other boy under Burrell's care grab Plaintiff's hips and "make believe" that he was having sex with a girl. These sexual assaults and rapes occurred approximately two times a month; typically, when Plaintiff returned from school and Keyes would be at Burrell's home.

31. After approximately one year of almost daily sexual assaults by Burrell and bimonthly sexual assaults by Keyes, the LaSalle School ended the pilot foster placement program and Plaintiff, still a ward of the State, returned to live at the LaSalle School.

32. Plaintiff reported Burrell's sexually abusive behavior to Pat Collins, a counselor at the school, as well as a "Brother Brice," who was also employed there. Even after these reports, Plaintiff is unaware of any action taken by any of the Defendants to protect him from being sexually assaulted further.

33. At the time Plaintiff returned to live at the LaSalle School, Fr. Joseph R. Romano was employed as the school's coordinator of religious education. Fr. Romano also served as the parish priest at the school, saying mass and performing other clerical duties.

34. Fr. Romano was given apparent carte blanche to go where he pleased at the LaSalle School. He would frequently roam the school's dormitory in the evenings, playing cards and socializing with the boys. He also interacted with William H. Keyes (the very man who sexually assaulted Plaintiff at Burrell's house) as the two men undertook their respective duties at the LaSalle School.

35. Shortly after Plaintiff began living again at the LaSalle School, Fr. Romano began to sexually assault Plaintiff.

36. The first instance occurred when Fr. Romano drove Plaintiff and another boy to his living quarters at a diocesan rectory near the school. Fr. Romano took the other boy into his bedroom and, in an intentional display to Plaintiff, made the other boy perform oral sex on Fr. Romano while Plaintiff was forced to watch. Although Plaintiff was not naïve to the evils of men like Burrell and Keyes, he was stunned that a priest would engage in such activities.

37. A few days later, Fr. Romano drove Plaintiff back to this same rectory, physically forced Plaintiff to his knees and made Plaintiff perform oral sex on him.

38. Fr. Romano repeated these sexual assaults several times in the ensuing months, telling Plaintiff not to tell anyone and reminding him that, even if Plaintiff did tell someone, it would be the word of a “troubled teen” against that of a Priest.

39. During this period of abuse, Plaintiff would talk with the other boy who was being assaulted by Fr. Romano. They felt that it was their lot at LaSalle to be passed from one pedophile, like Burrell, Keyes and Romano, to another. They felt powerless to stop the abuse because they felt that, though “everybody knew” what happening at the school, no one was willing to do anything about it. They both believed that there were numerous other victims being subjected to Fr. Romano’s abuse.

40. As a direct result of Charles Burrell’s and Defendants William H. Keyes’ and Fr. Joseph R. Romano’s sexual abuse of Plaintiff, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, depression, loss of self-esteem, suicidal ideation, inappropriate sex addiction, difficulty maintaining healthy body weight, gastrointestinal issues, difficulty sleeping, humiliation and psychological injuries, was prevented and will continue to be prevented from performing his normal daily activities, maintaining close personal relationships and obtaining

the full enjoyment of life, has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling, all to Plaintiff's damage in excess of the jurisdiction of all lower courts.

FIRST CAUSE OF ACTION

NEGLIGENCE/GROSS NEGLIGENCE AGAINST DEFENDANTS NEW YORK OFFICE OF CHILDREN AND FAMILY SERVICES, LaSALLE SCHOOL AND CHRISTIAN BROTHERS FOR ACTIONS OF CHARLES B. BURRELL

41. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

42. Plaintiff was removed from his family at a formative age and placed in the direct care of organizations claiming to protect the needs and interests of children. Plaintiff, therefore, developed great trust, reverence and respect for Defendants OCFS, LaSalle School, Christian Brothers and their agents.

43. Defendants held out the home of Charles B. Burrell as a safe and secure foster home and undertook the care, protection and meeting the physical needs of Plaintiff. Defendants and their agents exercised a direct role over Plaintiff. Accordingly, Plaintiff placed trust in Defendants so that Defendants and their agents gained superiority and influence over Plaintiff. Defendants entered into a special relationship with Plaintiff and his family.

44. At all times material, Charles B. Burrell was engaged by Defendants OCFS, La Salle School and Christian Brothers as a foster parent.

45. At all times material, Charles B. Burrell remained under the direct supervision and control of Defendants OCFS, La Salle School and Christian Brothers.

46. Defendants allowed Charles B. Burrell to have unsupervised and unlimited access to foster children through foster programs established by OCFS and the LaSalle School.

47. Upon information and belief, before Plaintiff was sexually abused by Charles B.

Burrell, Defendants had actual or constructive knowledge of material facts regarding Charles B. Burrell's sexual misconduct, impulses and behavior.

48. Despite clear indications of danger, Defendants took no steps to discover the specific nature of Charles B. Burrell's problems or to determine whether he was fit to work with children or to protect children from him, thereby increasing the likelihood that Plaintiff would be harmed.

49. Defendants owed Plaintiff a duty of reasonable care because they assumed duties owed to Plaintiff and had superior knowledge about the risk that Charles B. Burrell posed to Plaintiff, the risk of abuse in general in their programs and/or the risks that their facilities posed to minor children. Defendants had the duty to protect the moral purity of Plaintiff and other children within the foster programs organized by OCFS and the LaSalle School.

50. Defendants owed Plaintiff a duty of reasonable care because they assumed that duty and because they solicited youth and parents for participation in their youth programs.

51. Defendants owed Plaintiff a duty of reasonable care because they undertook custody of minor children, including Plaintiff.

52. Defendants owed Plaintiff a duty of reasonable care because they promoted their facilities and programs as being safe for children.

53. Defendants owed Plaintiff a duty of reasonable care because they held out their agents, including Charles B. Burrell, as safe to work with children.

54. Defendants owed Plaintiff duty of reasonable care because they encouraged parents and children to spend time with their agents and/or encouraged their agents, including Charles B. Burrell, to spend time with, interact with and recruit children.

55. Defendants had a duty to Plaintiff to protect him from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff.

56. Defendants breached their duties by exposing Plaintiff to a known pedophile.

57. Defendants breached their duties by exposing Plaintiff to a foster parent whom Defendants knew or should have known was a pedophile.

58. Defendants breached their duties by recruiting, hiring and maintaining Charles B. Burrell in a position of authority over children.

59. Defendants breached their duties by exposing Charles B. Burrell to children.

60. Defendants breached their duties by leaving Charles B. Burrell alone with children unsupervised.

61. Defendants breached their duties by inducing Plaintiff and his parents to entrust Plaintiff to Charles B. Burrell.

62. Defendants breached their duties by failing to follow policies and procedures designed to prevent child sex abuse and/or failing to implement sufficient policies and procedures to prevent child sex abuse.

63. Defendants breached their duties by failing to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working.

64. Defendants breached their duties by failing to adequately inform families and children of the known risks of child sex abuse within foster programs generally.

65. Defendants breached their duties by holding out their employees and agents, including Charles B. Burrell, as safe and wholesome for children to be with.

66. Defendants breached their duties by failing to investigate risks of child molestation.

67. Defendants breached their duties by failing to have any outside agency test their safety procedures.

68. Defendants breached their duties by failing to protect the children in their programs from child sex abuse; failing to adhere to the applicable standard of care for child safety.

69. Defendants breached their duties by failing to investigate the amount and type of information necessary to represent the institutions, programs and leaders and people as safe.

70. Defendants breached their duties by failing to respond to and/or investigate information of improper conduct of employees or agents with children, including Charles B. Burrell.

71. Defendants breached their duty to use ordinary care in determining whether their facilities were safe and/or to determine whether they had sufficient information to represent their facilities and programs as safe.

72. Defendants breached their duty of care by maintaining Charles B. Burrell as foster parent in their foster program.

73. Defendants breached their duty of care by holding out their foster program as a safe and moral program for children, which it was not.

74. Defendants breached their duty of care by failing to have sufficient policies and procedures prevent abuse in their foster programs.

75. Defendants breached their duty of care by failing to investigate risks in their foster programs.

76. Defendants breached their duty of care by failing to properly train the workers in their foster programs; failing to have any outside agency test their safety procedures.

77. Defendants breached their duties to Plaintiff by holding out foster parents,

including Charles B. Burrell, as safe, moral and trustworthy people and by failing to warn Plaintiff and his family of the risk that Charles B. Burrell posed and the known risks of child sexual abuse by foster parents in general.

78. Defendants also failed to warn Plaintiff about any of the knowledge that Defendants had about child sex abuse perpetrated by foster parents or Charles B. Burrell.

79. Defendants breached their duties to Plaintiff by failing to report Charles B. Burrell's abuse of children to the police and law enforcement.

80. Defendants further breached their duties by hiding a pedophile and engaging in a cover-up of abuse perpetrated by Charles B. Burrell.

81. Defendants knew or should have known that some of the leaders and people working at OCFS and Christian Brothers institutions within the county of Albany were not safe for children.

82. Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Christian Brothers' programs were safe to be around children.

83. Defendants knew or should have known that there was a risk of child sex abuse for children participating in OCFS' and LaSalle School's foster programs and activities.

84. Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in OCFS' and LaSalle School's foster programs and activities.

85. Defendants knew or should have known that they had other agents who had sexually molested children.

86. Defendants knew or should have known that child molesters have high rate of recidivism.

87. Defendants knew or should have known that there was a specific danger of child sex abuse for children participating in Defendants' foster programs.

88. Defendants held their foster parents, leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and foster families to their programs, schools, marketing to youth and families, recruiting youth and foster families and holding out the people that worked in the programs as safe for children/youth.

89. Defendants made negligent representations to Plaintiff and his family during the years of his minority. Plaintiff and/or his family relied upon these representations, which resulted in Plaintiff being put in a vulnerable situation with Charles B. Burrell who harmed him.

90. At all times material, Defendants controlled the program through which Charles B. Burrell acted as a foster parent.

91. At all times material, Defendants had the power to terminate Charles B. Burrell as a foster parent.

92. Upon information and belief; before Plaintiff was sexually abused by Charles B. Burrell, Defendants had actual or constructive knowledge of material facts regarding Charles B. Burrell's sexual misconduct, impulses and behavior, but failed to act on that knowledge and exposed Plaintiff, a child, to Charles B. Burrell, thereby increasing the likelihood that Plaintiff would be harmed.

93. As a direct result of Defendants' negligence, gross negligence, breached duties,

sexual abuse, sexual exploitation and Defendants' conduct, Plaintiff has suffered and will continue to suffer the severe injuries and damages described herein.

94. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SECOND CAUSE OF ACTION

NEGLIGENCE/GROSS NEGLIGENCE AGAINST DEFENDANTS NEW YORK OFFICE OF CHILDREN AND FAMILY SERVICES, LASALLE SCHOOL AND CHRISTIAN BROTHERS FOR ACTIONS OF WILLIAM H. KEYES

95. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

96. Plaintiff was removed from his family at a formative age and placed in the direct care of organizations claiming to protect the needs and interests of children. Plaintiff, therefore, developed great trust, reverence and respect for Defendants OCFS, LaSalle School, Christian Brothers and their agents.

97. Defendants held out the home of Charles B. Burrell as a safe and secure foster home and undertook the care, protection and meeting the physical needs of Plaintiff. Defendants and their agents exercised a direct role over Plaintiff. Accordingly, Plaintiff placed trust in Defendants so that Defendants and their agents gained superiority and influence over Plaintiff. Defendants entered into a special relationship with Plaintiff and his family.

98. By holding the home of Charles B. Burrell out as a safe environment for children and by undertaking the custody, supervision of and/or care of the minor Plaintiff, Defendants entered into a special relationship with the minor Plaintiff. Because Plaintiff was a minor and because Defendants undertook the care and guidance of the then vulnerable Plaintiff, Defendants held a position of empowerment over Plaintiff.

99. Defendants, by holding themselves out as able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented Plaintiff from effectively protecting himself. Defendants thus entered into a special relationship with Plaintiff.

100. By holding their foster care programs and foster homes out as a safe, moral and trusted organization to Plaintiff's parents, Defendants induced Plaintiff's parents to entrust their child to Defendants and thereby deprived Plaintiff of the protection of his family. By accepting Plaintiff as a ward of the State of New York, Defendants knew, or in the exercise of reasonable care, should have known that Plaintiff was entirely without parental protection.

101. At all times material, William H. Keyes was a known friend and associate of Charles B. Burrell. At all times material, Burrell was responsible for maintaining his home, including the visitors to his home, as a safe environment for children.

102. At all times material, the foster home operated by Charles B. Burrell remained under the direct supervision, employ and control of Defendants.

103. Defendants allowed Charles B. Burrell and William H. Keyes to have unsupervised and unlimited access to minor children at Burrell's home.

104. Upon information and belief, before Plaintiff was sexually abused by William H. Keyes, Defendants had actual or constructive knowledge of material facts regarding Keyes's sexual misconduct, impulses and behavior.

105. Before Plaintiff was sexually abused by William H. Keyes, Defendants knew or, in the exercise of reasonable care, should have known of material facts regarding Keyes's sexual misconduct, impulses and behavior.

106. Despite clear indications of danger, Defendants took no steps to discover the

specific nature of William H. Keyes's problems or to determine whether he was fit to be around children or to protect children from him, thereby increasing the likelihood that Plaintiff would be harmed.

107. Defendants owed Plaintiff a duty of reasonable care because they assumed duties owed to Plaintiff and had superior knowledge about the risk that William H. Keyes posed to Plaintiff, the risk of abuse in general in their programs and/or the risks that their foster homes posed to minor children. Defendants had the duty to protect the moral purity of Plaintiff and other foster children in the custody of OCFS and the LaSalle School.

108. Defendants owed a duty to Plaintiff to inspect the home of Charles B. Burrell to ensure that it was a safe environment for foster children.

109. Defendants owed a duty to Plaintiff to investigate the friends and acquaintances of Charles B. Burrell, including William H. Keyes, to ensure that they were safe to be around children.

110. Defendants owed Plaintiff a duty of reasonable care because they assumed that duty and because they solicited youth and parents for participation in their foster programs.

111. Defendants owed Plaintiff a duty of reasonable care because they undertook custody of minor children, including Plaintiff.

112. Defendants owed Plaintiff a duty of reasonable care because they promoted their foster programs and foster homes as being safe for children.

113. Defendants had a duty to Plaintiff to protect him from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff.

114. Defendants breached their duties by exposing Plaintiff to a known pedophile.

115. Defendants breached their duties by exposing Plaintiff to an environment where

Defendants knew or should have known sexual abuse was likely to occur.

116. Defendants breached their duties by failing to properly inspect the home of Charles B. Burrell to ensure that it was a safe environment for foster children.

117. Defendants breached their duties by failing to investigate the friends and acquaintances of Charles B. Burrell, including William H. Keyes, to ensure that these people were safe to be around children.

118. Defendants breached their duties by allowing children to be exposed to William H. Keyes.

119. Defendants breached their duties by allowing William H. Keyes and Charles B. Burrell to be alone with children unsupervised.

120. Defendants breached their duties by failing to discover that William H. Keyes and Charles B. Burrell were abusing foster children in their care, including Plaintiff.

121. Defendants breached their duties by failing to prevent William H. Keyes from interacting with children, including Plaintiff, in their foster programs.

122. Defendants breached their duties by failing to follow policies and procedures designed to prevent child sex abuse and/or failing to implement sufficient policies and procedures to prevent child sex abuse.

123. Defendants breached their duties by failing to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working.

124. Defendants breached their duties by failing to adequately inform families and children of the known risks of child sex abuse within the LaSalle School and OCFS foster care program.

125. Defendants breached their duties by holding out their foster homes, including that of Charles B. Burrell, as safe and wholesome for children to be with.

126. Defendants breached their duties by failing to investigate risks of child molestation.

127. Defendants breached their duties by failing to have any outside agency test their safety procedures.

128. Defendants breached their duties by failing to protect the children in their foster care programs from child sex abuse; failing to adhere to the applicable standard of care for child safety.

129. Defendants breached their duties by failing to investigate the amount and type of information necessary to represent the programs, foster homes, foster parents and people as safe.

130. Defendants breached their duties by failing to respond to and/or investigate information of improper conduct of employees or agents with children, including William H. Keyes.

131. Defendants breached their duties by failing to properly train their employees to identify signs of child molestation in foster homes within their programs.

132. Defendants breached their duty to use ordinary care in determining whether their facilities were safe and/or to determine whether they had sufficient information to represent their facilities as safe.

133. Defendants breached their duty of care by maintaining a dangerous condition within their foster program (i.e., a foster home Defendants knew or should have known was a haven for the sexual abuse of children).

134. Defendants breached their duty of care by holding out their facilities as a safe and moral place for children, which they were not.

135. Defendants breached their duty of care by failing to have sufficient policies and procedures prevent abuse at their facilities.

136. Defendants breached their duty of care by failing to investigate risks within their foster care programs.

137. Defendants breached their duty of care by failing to properly train the workers in their foster care programs; failing to have any outside agency test their safety procedures.

138. Defendants breached their duties to Plaintiff by holding out foster homes, including the home of Charles B. Burrell, as safe, moral and trustworthy spaces and by failing to warn Plaintiff and his family of the risk that William H. Keyes and Charles B. Burrell posed and the known risks of child sexual abuse in foster homes in general.

139. Defendants also failed to warn Plaintiff about any of the knowledge that Defendants had about child sex abuse perpetrated by foster parents or friends of foster parents, like William H. Keyes.

140. Defendants breached their duties to Plaintiff by failing to report William H. Keyes's abuse of children to the police and law enforcement.

141. Defendants further breached their duties by hiding a pedophile and engaging in a cover-up of abuse perpetrated by William H. Keyes.

142. Defendants knew or should have known that some of the leaders and people working at foster care institutions within the county of Albany were not safe for children.

143. Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at foster care institutions within the county of Albany were safe to be around children.

144. Defendants knew or should have known that there was a risk of child sex abuse for children participating in foster care programs and activities within the county of Albany.

145. Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in foster care programs and activities within the county of Albany.

146. Defendants knew or should have known that they had other agents who had sexually molested children.

147. Defendants knew or should have known that child molesters have high rate of recidivism.

148. Defendants knew or should have known that there was a specific danger of child sex abuse for children participating in Defendants' foster care programs.

149. Defendants held their leaders and agents out as people of high morals, as possessing immense power, teaching families to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to their programs, schools, marketing to youth and families, recruiting youth and families and holding out the people that worked in the programs as safe for children/youth.

150. At all times material, Defendants had the power to terminate the use of Charles B. Burrell's home as a foster home.

151. Upon information and belief; before Plaintiff was sexually abused by William H. Keyes, Defendants had actual or constructive knowledge of material facts regarding William H. Keyes's sexual misconduct, impulses and behavior, but failed to act on that knowledge and exposed Plaintiff, a child, to William H. Keyes, thereby increasing the likelihood that Plaintiff would be harmed.

152. As a direct result of Defendants' negligence, gross negligence, breached duties, sexual abuse, sexual exploitation and Defendants' conduct, Plaintiff has suffered and will continue to suffer the severe injuries and damages described herein.

153. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION

NEGLIGENCE/GROSS NEGLIGENCE AGAINST DEFENDANTS ROMAN CATHOLIC DIOCESE OF ALBANY, LASALLE SCHOOL AND CHRISTIAN BROTHERS FOR ACTIONS OF FR. JOSEPH R. ROMANO

154. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

155. Plaintiff was removed from his biological family at a formative age and placed in the care of a Roman Catholic organization, celebrated mass, attended Catholic schools during his formative years and participated in church-related activities. Plaintiff therefore developed great admiration, trust, reverence and respect for Defendants Roman Catholic Diocese of Albany, LaSalle School, Christian Brothers and their agents.

156. Defendants held Fr. Joseph R. Romano out as qualified Roman Catholic priest and/or teacher and undertook the education, religious instruction and spiritual and emotional guidance of Plaintiff. Defendants and their agents exercised a direct role over Plaintiff. Accordingly, Plaintiff placed trust in Defendants so that Defendants and their agents gained superiority and influence over Plaintiff. Defendants entered into a special relationship with Plaintiff and his family

157. By holding Fr. Joseph R. Romano out as safe to work with children and by undertaking the custody, supervision of and/or care of the minor Plaintiff, Defendants entered into a special relationship with the minor Plaintiff. Because Plaintiff was a minor and because Defendants undertook the care and guidance of the then vulnerable Plaintiff, Defendants held a position of empowerment over Plaintiff.

158. Defendants, by holding themselves out as able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented Plaintiff from effectively protecting himself. Defendants thus entered into a special relationship with Plaintiff.

159. By holding themselves out as a safe, moral and trusted institution to Plaintiff's parents, Defendants induced Plaintiff's parents to entrust their child to Defendants and thereby deprived Plaintiff of the protection of his family. By accepting Plaintiff as a ward of the State of New York, Defendants knew, or in the exercise of reasonable care, should have known that Plaintiff was entirely without parental protection.

160. At all times material, Fr. Joseph R. Romano's sexual abuse of Plaintiff was foreseeable. The problem of clergy sexual abuse of minors is well documented throughout the history of the Roman Catholic Church. As far back as 1051, St. Peter Damian wrote in the *Book of Gomorrah* that clergy who defiled boys should be dismissed from holy orders. (*Book of Gomorrah*, Ch. 6) Later, St. Peter Damian wrote in his *Rule of the Monastery of Compludo* about the punishment for "A cleric or monk who seduces youths or young boys" being public flogging, loss of tonsure and six months in jail, among other punishment. In 1143 or 1144, a professor at the University of Bologna named Gratian, known the "Father of the Science of Canon Law," in his

work the *Decretum*, identified the sexual sin by a priest that he called *stuprum pueri*, which is the sexual use of boys by an adult male.

161. In 1961, the Vatican issued an instruction on the training of candidates for the priesthood, based upon the 1917 Code of Canon Law, stating:

Advancement to religious vows and ordination should be barred to those who are afflicted with evil tendencies to homosexuality or pederasty, since for them the common life and priestly ministry would constitute serious dangers.

162. The Catholic Church's knowledge that Catholic clergy were sexually abusing minors continued through the Middle Ages and into recent history. In 1962, Pope John XXIII approved the publication *De Modo Procedendi in Causis Solicitationis*, a special procedural law addressing solicitations of sex in the confessional. This document contained instructions prohibiting clergy from having sex with minors under the age of sixteen. This document was distributed to every bishop and major religious superior in the world. It was to be kept by them with the deepest secrecy. This document reflected the Catholic Church's insistence on maintaining the highest degree of secrecy regarding the worst sexual crimes perpetrated by clergy.

163. In 1947, a priest named Fr. Gerald Fitzgerald founded a religious order for priests called the Servants of the Paracletes. This religious order was founded to assist and treat Catholic clergy who experienced mental health problems. By 1952, Fr. Fitzgerald wrote that he had already treated handful of priests who had sexually abused minors. By 1963, the Paracletes were treating so many sexually abusive clergy that they developed a shorthand code, "Code 3," to describe the offense. By 1966, the Paracletes began specializing in treatment of pedophile Catholic clergy.

164. As early as 1971, the issue of sexual misconduct by clergy was being discussed in the Commonwealth of Massachusetts. Bishop Bernard Flanagan, Bishop of Worcester (Massachusetts) testified that, as early as February of 1971, there had been discussions about sexual misconduct among priests. According to Bishop Flanagan, "I think by 1971 I had heard of

other cases of this type [sic] sexual misconduct and I knew that they were taking place in other dioceses too.”

165. That same year, Dr. Conrad Baars and Dr. Anna Terruwe presented a scholarly paper titled “The Role of the Church in the Causation, Treatment and Prevention of the Crisis in the Priesthood” to the 1971 Synod of Bishops at the Vatican and to the U.S. Conference of Catholic Bishops about psychiatric problems in Catholic clergy and how psychosexual immaturity manifested itself in heterosexual and homosexual activity.

166. In 1985, the public prosecution of a priest in Lafayette, Louisiana led to the creation of the 100-page document titled “The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner” by Fr. Thomas Doyle, F. Ray Mouton and Fr./Dr. Michael Peterson. This document was distributed to every Catholic Bishop and religious order ordinary in the United States. A substantial portion of this document describes how significant the sexual abuse of children by Catholic clergy had become.

167. In 1990, psychologist and priest A.W. Richard Sipe published a study involving 1,500 priests that concluded that six (6) percent of priests were sexually involved with minors.

168. At all times material, Fr. Joseph R. Romano was employed by Defendants Roman Catholic Diocese of Albany at the LaSalle School.

169. At all times material, Fr. Joseph R. Romano remained under the direct supervision, employ and control of Defendants Roman Catholic Diocese of Albany, LaSalle School and Christian Brothers.

170. Defendants allowed Fr. Joseph R. Romano to have unsupervised and unlimited access to minor children at the LaSalle School, located within Roman Catholic Diocese of Albany in Albany, New York.

171. Upon information and belief, before Plaintiff was sexually abused by Fr. Joseph R. Romano, Defendants had actual or constructive knowledge of material facts regarding Fr. Joseph R. Romano's sexual misconduct, impulses and behavior.

172. Despite clear indications of danger, Defendants took no steps to discover the specific nature of Fr. Joseph R. Romano's problems or to determine whether he was fit to work with children or to protect children from him, thereby increasing the likelihood that Plaintiff would be harmed.

173. Defendants owed Plaintiff a duty of reasonable care because they assumed duties owed to Plaintiff and had superior knowledge about the risk that Fr. Joseph R. Romano posed to Plaintiff, the risk of abuse in general in their programs and/or the risks that their facilities posed to minor children. Defendants had the duty to protect the moral purity of Plaintiff and other children within the LaSalle School and the Roman Catholic Diocese of Albany.

174. Defendants owed Plaintiff a duty of reasonable care because they assumed that duty and because they solicited youth and parents for participation in their youth programs.

175. Defendants owed Plaintiff a duty of reasonable care because they undertook custody of minor children, including Plaintiff.

176. Defendants owed Plaintiff a duty of reasonable care because they promoted their facilities and programs as being safe for children.

177. Defendants owed Plaintiff a duty of reasonable care because they held out their agents, including Fr. Joseph R. Romano, as safe to work with children.

178. Defendants owed Plaintiff duty of reasonable care because they encouraged parents and children to spend time with their agents and/or encouraged their agents, including Fr. Joseph R. Romano, to spend time with, interact with and recruit children.

179. Defendants had a duty to Plaintiff to protect him from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff.

180. Defendants breached their duties by exposing Plaintiff to a known pedophile.

181. Defendants breached their duties by exposing Plaintiff to a priest and/or teacher whom Defendants knew or should have known was a pedophile.

182. Defendants breached their duties by recruiting, hiring and maintaining Fr. Joseph R. Romano in a position of authority over children.

183. Defendants breached their duties by exposing Fr. Joseph R. Romano to children.

184. Defendants breached their duties by leaving Fr. Joseph R. Romano alone with children unsupervised.

185. Defendants breached their duties by inducing Plaintiff and his parents to entrust Plaintiff to Fr. Joseph R. Romano.

186. Defendants breached their duties by failing to follow policies and procedures designed to prevent child sex abuse and/or failing to implement sufficient policies and procedures to prevent child sex abuse.

187. Defendants breached their duties by failing to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working.

188. Defendants breached their duties by failing to adequately inform families and children of the known risks of child sex abuse within Roman Catholic Diocese of Albany.

189. Defendants breached their duties by holding out their employees and agents, including Fr. Joseph R. Romano, as safe and wholesome for children to be with.

190. Defendants breached their duties by failing to investigate risks of child molestation.

191. Defendants breached their duties by failing to have any outside agency test their safety procedures.

192. Defendants breached their duties by failing to protect the children in their programs from child sex abuse; failing to adhere to the applicable standard of care for child safety.

193. Defendants breached their duties by failing to investigate the amount and type of information necessary to represent the institutions, programs and leaders and people as safe.

194. Defendants breached their duties by failing to respond to and/or investigate information of improper conduct of employees or agents with children, including Fr. Joseph R. Romano.

195. Defendants breached their duties by failing to properly train their employees to identify signs of child molestation by fellow employees.

196. Defendants breached their duty to use ordinary care in determining whether their facilities were safe and/or to determine whether they had sufficient information to represent their facilities as safe.

197. Defendants breached their duty of care by maintaining Fr. Joseph R. Romano at their facilities.

198. Defendants breached their duty of care by maintaining a dangerous condition on the premises of their facilities (i.e., a priest and/or teacher Defendants knew or should have known posed a risk of pedophile harm to children).

199. Defendants breached their duty of care by holding out their facilities as a safe and moral place for children, which it was not.

200. Defendants breached their duty of care by failing to have sufficient policies and procedures prevent abuse at their facilities.

201. Defendants breached their duty of care by failing to investigate risks at their facilities.

202. Defendants breached their duty of care by failing to properly train the workers at their facilities; failing to have any outside agency test their safety procedures.

203. Defendants breached their duties to Plaintiff by holding out clergy members, including Fr. Joseph R. Romano, as safe, moral and trustworthy people and by failing to warn Plaintiff and his family of the risk that Fr. Joseph R. Romano posed and the known risks of child sexual abuse by clerics in general.

204. Defendants also failed to warn Plaintiff about any of the knowledge that Defendants had about child sex abuse perpetrated by clergy or Fr. Joseph R. Romano.

205. Defendants breached their duties to Plaintiff by failing to report Fr. Joseph R. Romano's abuse of children to the police and law enforcement.

206. Defendants further breached their duties by hiding a pedophile and engaging in a cover-up of abuse perpetrated by Fr. Joseph R. Romano.

207. Defendants knew or should have known that some of the leaders and people working at Catholic institutions within Roman Catholic Diocese of Albany were not safe for children.

208. Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Catholic institutions within Roman Catholic Diocese of Albany were safe to be around children.

209. Defendants knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within Roman Catholic Diocese of Albany.

210. Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within Roman Catholic Diocese of Albany.

211. Defendants knew or should have known that they had other agents who had sexually molested children.

212. Defendants knew or should have known that child molesters have high rate of recidivism.

213. Defendants knew or should have known that there was a specific danger of child sex abuse for children participating in Defendants' youth programs.

214. Defendants held their leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to their programs, schools, marketing to youth and families, recruiting youth and families and holding out the people that worked in the programs as safe for children/youth.

215. Defendants made negligent representations to Plaintiff and his family during each and every year of his minority. Plaintiff and/or his family relied upon these representations, which resulted in Plaintiff being put in a vulnerable situation with Fr. Joseph R. Romano who harmed him.

216. At all times material, Defendants controlled the premises where Fr. Joseph R. Romano performed as a priest and/or teacher.

217. At all times material, Defendants had the power to terminate the employment of Fr. Joseph R. Romano.

218. Upon information and belief; before Plaintiff was sexually abused by Fr. Joseph R. Romano, Defendants had actual or constructive knowledge of material facts regarding Fr. Joseph R. Romano's sexual misconduct, impulses and behavior, but failed to act on that knowledge and exposed Plaintiff, a child, to Fr. Joseph R. Romano, thereby increasing the likelihood that Plaintiff would be harmed.

219. As a direct result of Defendants' negligence, gross negligence, breached duties, sexual abuse, sexual exploitation and Defendants' conduct, Plaintiff has suffered and will continue to suffer the severe injuries and damages described herein.

220. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FOURTH CAUSE OF ACTION

NEGLIGENT HIRING/RETENTION/SUPERVISION/DIRECTION AGAINST NEW YORK OFFICE OF CHILDREN AND FAMILY SERVICES, THE LASALLE SCHOOL AND THE CHRISTIAN BROTHERS FOR ACTIONS OF CHARLES B. BURRELL

221. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

222. At all times material, Defendants OCFS, the LaSalle School and the Christian Brothers, by and through their agents, managers, employees and directors, owed a duty to Plaintiff to use reasonable care to protect his safety, care, well-being and health while he was under the custody or in the presence of Defendants. These duties encompassed the use of reasonable care in the retention and supervision of Charles B. Burrell and otherwise providing a safe environment for children.

223. Prior to the sexual misconduct perpetrated by Charles B. Burrell upon Plaintiff,

Defendants knew, or in the exercise of reasonable care, should have known, of the general problem of foster parents engaging in sexual misconduct with children who were in foster care programs organized, supervised and/or overseen by Defendants.

224. Prior to sexual misconduct perpetrated by Charles B. Burrell upon Plaintiff, Defendants knew, or in the exercise of reasonable care, should have known, that Charles B. Burrell was unfit for the duties assigned to him, that he did not exhibit appropriate behavior with children and otherwise posed a risk of perpetrating unwanted sexual contact upon children.

225. Given actual or constructive knowledge of Charles B. Burrell's dangerous propensities specifically, Defendants had a duty to act reasonably in all decisions relating to his supervision and retention as an employee.

226. Defendants failed to exercise reasonable care in one or more of their decisions to supervise and retain Charles B. Burrell and therefore exposed Plaintiff to an unreasonable risk of harm.

227. Defendants affirmed and ratified Charles B. Burrell's misconduct with Plaintiff. Given the actual and constructive knowledge of the likelihood that Charles B. Burrell and/or other foster parents would engage children in unwanted sexual contact, the unwanted sexual contact of Plaintiff was reasonably foreseeable to Defendants.

228. Defendants and their agents had superior knowledge of the likelihood that Charles B. Burrell would engage in unwanted sexual conduct with clients that he encountered in his position as a foster parent and had a duty to take precautions to lessen the risk that Plaintiff would be the victim of unwanted sexual contact.

229. At all relevant times, Defendants' acts and omissions created an environment which fostered unwanted sexual contact and exploitation against the people they had a duty to protect, including Plaintiff.

230. At all relevant times, Defendants had inadequate policies and procedures to protect children entrusted to their care and protection, including Plaintiff, which substantially contributed to the creation of a dangerous environment.

231. As direct and proximate result of the negligence of Defendants, Plaintiff has suffered and will continue to suffer the severe injuries and damages described herein.

232. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs

FIFTH CAUSE OF ACTION

NEGLIGENT HIRING/RETENTION/SUPERVISION/DIRECTION AGAINST DIOCESE OF ALBANY, LASALLE SCHOOL AND CHRISTIAN BROTHERS FOR ACTIONS OF FR. JOSEPH R. ROMANO

233. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

234. At all times material, Defendants Roman Catholic Diocese of Albany, the LaSalle School and the Christian Brothers, by and through their agents, managers, employees and directors, owed a duty to Plaintiff to use reasonable care to protect his safety, care, well-being and health while he was under the custody or in the presence of Defendants. These duties encompassed the use of reasonable care in the retention and supervision of Fr. Joseph R. Romano and otherwise providing a safe environment for children.

235. Prior to the sexual misconduct perpetrated by Fr. Joseph R. Romano upon Plaintiff, Defendants knew, or in the exercise of reasonable care, should have known, of the general problem

of Catholic clergy engaging in sexual misconduct with children who were in Roman Catholic Diocese of Albany and the LaSalle School.

236. Prior to sexual misconduct perpetrated by Fr. Joseph R. Romano upon Plaintiff, Defendants knew, or in the exercise of reasonable care, should have known, that Fr. Joseph R. Romano was unfit for the duties assigned to him, that he did not exhibit appropriate behavior with children and otherwise posed a risk of perpetrating unwanted sexual contact upon children.

237. Given actual or constructive knowledge of Fr. Joseph R. Romano's dangerous propensities specifically, Defendants had a duty to act reasonably in all decisions relating to his supervision and retention as an employee.

238. Defendants failed to exercise reasonable care in one or more of their decisions to supervise and retain Fr. Joseph R. Romano and therefore exposed Plaintiff to an unreasonable risk of harm.

239. Defendants affirmed and ratified Fr. Joseph R. Romano's misconduct with Plaintiff. Given the actual and constructive knowledge of the likelihood that Fr. Joseph R. Romano and/or other clergy would engage children in unwanted sexual contact, the unwanted sexual contact of Plaintiff was reasonably foreseeable to Defendants.

240. Defendants and their agents had superior knowledge of the likelihood that Fr. Joseph R. Romano would engage in unwanted sexual conduct with clients that he encountered in his position as priest and/or teacher and had a duty to take precautions to lessen the risk that Plaintiff would be the victim of unwanted sexual contact.

241. At all relevant times, Defendants' acts and omissions created an environment which fostered unwanted sexual contact and exploitation against the people they had a duty to protect, including Plaintiff.

242. At all relevant times, Defendants had inadequate policies and procedures to protect children entrusted to their care and protection, including Plaintiff, which substantially contributed to the creation of a dangerous environment.

243. As direct and proximate result of the negligence of Defendants, Plaintiff has suffered and will continue to suffer the severe injuries and damages described herein.

244. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SIXTH CAUSE OF ACTION

RESPONDEAT SUPERIOR/VICARIOUS LIABILITY AGAINST DEFENDANTS NEW YORK OFFICE OF CHILDREN AND FAMILY SERVICES FOR ACTIONS OF CHARLES B. BURRELL

245. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

246. Among other duties, Defendants engaged Charles B. Burrell to act as a foster parent in a foster program organized, supervised and/or overseen by Defendants.

247. At times material, Charles B. Burrell was on duty as a foster father 24 hours per day, seven days per week.

248. At all times material, Charles B. Burrell remained under the direct supervision and control of Defendants.

249. At all times material, Defendants had the right to control the means and manner of Charles B. Burrell's performance.

250. At all times material, Defendants had the power to terminate the engagement of Charles B. Burrell.

251. Defendants created a master-servant relationship with Charles B. Burrell, using him to interact with and supervise children participating in the foster program organized by Defendants.

252. The unwanted contact by Charles B. Burrell upon Plaintiff occurred during his regular working hours and at the place of his employment with while performing duties of a foster parent on behalf of his employers.

253. The sexual contact by Charles B. Burrell occurred in the course and scope of his employment with Defendants.

254. The sexual contact by Charles B. Burrell was generally foreseeable to Defendants.

255. The sexual contact by Charles B. Burrell was closely connected to what he was employed to do as a foster father for Defendants and/or was otherwise naturally incidental to his job duties.

256. Charles B. Burrell's conduct was motivated, at least in part, by desire to serve his employer's business interests or otherwise meet the objectives of his employment, however misguided.

257. Alternatively, Charles B. Burrell's conduct constituted an authorized, minor deviation from his employment that was authorized and/or ratified by Defendants.

258. As a direct and proximate result of Charles B. Burrell's conduct, Plaintiff has suffered and will continue to suffer the severe injuries and damages described herein.

259. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SEVENTH CAUSE OF ACTION***RESPONDEAT SUPERIOR/VICARIOUS LIABILITY AGAINST DEFENDANTS ROMAN CATHOLIC
DIOCESE OF ALBANY, LASALLE SCHOOL AND CHRISTIAN BROTHERS
FOR ACTIONS OF FR. JOSEPH R. ROMANO***

260. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

261. Among other duties, Defendants employed Fr. Joseph R. Romano to operate programs, including educational, religious and spiritual counseling programs, at the LaSalle School.

262. At times material, Fr. Joseph R. Romano was on duty as a priest and/or teacher 24 hours per day, seven days per week.

263. At all times material, Fr. Joseph R. Romano remained under the direct supervision, employ and control of Defendants.

264. At all times material, Defendants had the right to control the means and manner of Fr. Joseph R. Romano's performance.

265. At all times material, Defendants paid Fr. Joseph R. Romano's salary and paid for Fr. Joseph R. Romano's health insurance and other benefits.

266. At all times material, Defendants furnished an office and other materials, supplies and tools required for Fr. Joseph R. Romano to perform in his position as a priest and/or teacher.

267. At all times material, Defendants controlled the premises where Fr. Joseph R. Romano performed as a priest and/or teacher.

268. At all times material, Defendants had the power to terminate the employment of Fr. Joseph R. Romano.

269. Defendants created a master-servant relationship with Fr. Joseph R. Romano, employing him to interact with and supervise children participating in programs at the LaSalle

School and as a diocesan priest in the Roman Catholic Diocese of Albany.

270. The unwanted contact by Fr. Joseph R. Romano upon Plaintiff occurred during his regular working hours and at the place of his employment with while performing duties of a priest and/or teacher on behalf of his employers.

271. The sexual contact by Fr. Joseph R. Romano occurred in the course and scope of his employment with Defendants.

272. The sexual contact by Fr. Joseph R. Romano was generally foreseeable to Defendants.

273. The sexual contact by Fr. Joseph R. Romano was closely connected to what he was employed to do as a priest and/or teacher for Defendants and/or was otherwise naturally incidental to his job duties.

274. Fr. Joseph R. Romano's conduct was motivated, at least in part, by desire to serve his employer's business interests or otherwise meet the objectives of his employment, however misguided.

275. Alternatively, Fr. Joseph R. Romano's conduct constituted an authorized, minor deviation from his employment that was authorized and/or ratified by Defendants.

276. As a direct and proximate result of Fr. Joseph R. Romano's conduct, Plaintiff has suffered and will continue to suffer the severe injuries and damages described herein.

277. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

EIGHTH CAUSE OF ACTION**PREMISES LIABILITY AGAINST DEFENDANT ROMAN CATHOLIC DIOCESE OF ALBANY FOR
ACTIONS OF FR. JOSEPH R. ROMANO**

278. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

279. Plaintiff was a business invitee of Defendant when Fr. Joseph R. Romano brought Plaintiff to his living quarters in the rectory and engaged him in unwanted sexual contact.

280. Defendant owed Plaintiff a duty to protect him from dangerous conditions on their premises that they knew about, or in the exercise of reasonable could have discovered.

281. Defendant owed Plaintiff a duty to provide a reasonably safe environment where he would be free from the threat of unwanted sexual contact while on Defendant's premises.

282. Defendant owed Plaintiff a duty to take reasonable precautions to ensure his safety while on the premises of Defendant.

283. Prior to the sexual misconduct perpetrated by Fr. Joseph R. Romano upon Plaintiff, Defendant knew, or in the exercise of reasonable care, should have known, of the general problem of priests and other clergy engaging in sexual misconduct with children.

284. Prior to the sexual misconduct perpetrated by Fr. Joseph R. Romano upon Plaintiff, Defendant knew, or in the exercise of reasonable care, should have known, that Fr. Joseph R. Romano was unfit for the intimate duties assigned to him, that he did not exhibit appropriate behavior with children and otherwise posed a risk of perpetrating unwanted sexual contact upon children.

285. Defendant breached the duty owed to Plaintiff by failing to make the premises reasonably safe for Plaintiff despite what they knew or should have known about the existence of a potential threat of harm to Plaintiff on their premises.

286. Defendant breached the duty they owed to plaintiff by failing to warn Plaintiff of the dangers and risks involved in participating in programs at the LaSalle School given their superior knowledge of the potential risk of harm to Plaintiff.

287. At all relevant times, Defendant had inadequate policies and procedures to protect children entrusted to their care and protection, including Plaintiff, which substantially contributed to the creation of a dangerous environment.

288. As direct and proximate result of the negligence of Defendant, Plaintiff has suffered and will continue to suffer the severe injuries and damages described herein.

289. By reason of the foregoing, Defendant are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

NINTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY AGAINST DEFENDANTS NEW YORK OFFICE OF CHILDREN AND FAMILY SERVICES, LASALLE SCHOOL AND CHRISTIAN BROTHERS FOR ACTIONS OF CHARLES B. BURRELL

290. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

291. There exists a fiduciary relationship of trust, confidence and reliance between Plaintiff and Defendants New York Office of Children and Family Services, LaSalle School and Christian Brothers. This relationship is based on the entrustment of Plaintiff while he was a minor child to the care and supervision of Defendants. This entrustment of Plaintiff to the care and supervision of Defendants while Plaintiff was a minor child required Defendants to assume a fiduciary relationship and to act in the best interest of Plaintiff as well as to protect him while he was a minor and vulnerable child.

292. Pursuant to their fiduciary relationship, Defendants were entrusted with the well-being, care and safety of Plaintiff.

293. Pursuant to their fiduciary relationship, Defendants assumed a duty to act in the best interest of Plaintiff.

294. By holding Charles B. Burrell out as safe to work with children and by undertaking the custody, supervision of and/or care of the minor Plaintiff, Defendants entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff being a minor and by Defendants' undertaking the care and guidance of the then vulnerable Plaintiff, Defendants held a position of empowerment over Plaintiff.

295. Defendants, by holding themselves out as being able to provide safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented Plaintiff from effectively protecting himself and Defendants thus entered into a fiduciary relationship with Plaintiff.

296. By holding themselves out as a safe, moral and trusted institution to Plaintiff's parents, Defendants induced Plaintiff's parents to entrust their child to Defendants and thereby deprived Plaintiff of the protection of his family.

297. Defendants breached their fiduciary duty to Plaintiff.

298. At all times material hereto, Defendants' actions and/or inactions were willful, wanton, malicious, reckless and outrageous in their disregard for the rights and safety of Plaintiff.

299. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

300. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages together with interests and costs.

TENTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY AGAINST DEFENDANTS ROMAN CATHOLIC DIOCESE OF ALBANY, LASALLE SCHOOL, CHRISTIAN BROTHERS AND FR. JOSEPH R. ROMANO FOR ACTIONS OF FR. JOSEPH R. ROMANO

301. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

302. There exists a fiduciary relationship of trust, confidence and reliance between Plaintiff and Defendants Roman Catholic Diocese of Albany, LaSalle School, Christian Brothers and Fr. Joseph R. Romano. This relationship is based on the entrustment of Plaintiff while he was a minor child to the care and supervision of Defendants. This entrustment of Plaintiff to the care and supervision of Defendants while Plaintiff was a minor child required Defendants to assume a fiduciary relationship and to act in the best interest of Plaintiff as well as to protect him while he was a minor and vulnerable child.

303. Pursuant to their fiduciary relationship, Defendants were entrusted with the well-being, care and safety of Plaintiff.

304. Pursuant to their fiduciary relationship, Defendants assumed a duty to act in the best interest of Plaintiff.

305. By holding Fr. Joseph R. Romano out as safe to work with children and by undertaking the custody, supervision of and/or care of the minor Plaintiff, Defendants entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff being a minor and by Defendants' undertaking the care and guidance of the then vulnerable Plaintiff, Defendants held a position of empowerment over Plaintiff.

306. Defendants, by holding themselves out as being able to provide safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented Plaintiff from effectively protecting himself and Defendants thus entered into a fiduciary relationship with Plaintiff.

307. By holding themselves out as safe, moral and trusted institutions to Plaintiff's parents, Defendants induced Plaintiff's parents to entrust their child to Defendants and thereby deprived Plaintiff of the protection of his family.

308. Defendants breached their fiduciary duty to Plaintiff.

309. At all times material hereto, Defendants' actions and/or inactions were willful, wanton, malicious, reckless and outrageous in their disregard for the rights and safety of Plaintiff.

310. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

311. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages together with interests and costs.

ELEVENTH CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST DEFENDANTS NEW YORK OFFICE OF CHILDREN AND FAMILY SERVICES, LASALLE SCHOOL AND CHRISTIAN BROTHERS FOR ACTIONS OF CHARLES B. BURRELL

312. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

313. As described above, the actions of Defendants, their predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.

314. Defendants' actions endangered Plaintiff's safety and caused him to fear for his own safety.

315. As a direct and proximate result of Defendants' actions, which included but were not limited to negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

316. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

TWELFTH CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST DEFENDANTS NEW YORK OFFICE OF CHILDREN AND FAMILY SERVICES, LASALLE SCHOOL, CHRISTIAN BROTHERS AND WILLIAM H. KEYES FOR ACTIONS OF WILLIAM H. KEYES

317. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

318. As described above, the actions of Defendants, their predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.

319. Defendants' actions endangered Plaintiff's safety and caused him to fear for his own safety.

320. As a direct and proximate result of Defendants' actions, which included but were not limited to negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

321. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

THIRTEENTH CAUSE OF ACTION**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST DEFENDANTS ROMAN CATHOLIC DIOCESE OF ALBANY, LASALLE SCHOOL, CHRISTIAN BROTHERS AND FR. JOSEPH R. ROMANO
FOR ACTIONS OF FR. JOSEPH R. ROMANO**

322. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

323. As described above, the actions of Defendants, their predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.

324. Defendants' actions endangered Plaintiff's safety and caused him to fear for his own safety.

325. As a direct and proximate result of Defendants' actions, which included but were not limited to negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

326. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FOURTEENTH CAUSE OF ACTION**BREACH OF DUTY *IN LOCO PARENTIS* AGAINST DEFENDANTS NEW YORK OFFICE OF CHILDREN AND FAMILY SERVICES, LASALLE SCHOOL AND CHRISTIAN BROTHERS
FOR ACTIONS OF CHARLES B. BURRELL**

327. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

328. While he was a minor, Plaintiff was entrusted by his parents to the control of Defendants New York Office of Children and Family Services, LaSalle School and Christian Brothers for the purposes of, *inter alia*, providing Plaintiff with appropriate guidance and

opportunity to enjoy educational, youth and recreational activities under reasonable adult supervision. During the times that Plaintiff was a ward of the LaSalle School foster program, he was under the supervision and control of Defendants. Defendants owe and owed, a duty to children entrusted to them, including Plaintiff, to act *in loco parentis* and to prevent foreseeable injuries.

329. Defendants breached their duty to act *in loco parentis*.

330. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

331. As a direct result of Defendants' conduct, Plaintiff has suffered the injuries and damages described herein.

332. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FIFTEENTH CAUSE OF ACTION

**BREACH OF DUTY *IN LOCO PARENTIS* AGAINST DEFENDANTS ROMAN CATHOLIC DIOCESE OF ALBANY, LASALLE SCHOOL, CHRISTIAN BROTHERS AND FR. JOSEPH R. ROMANO
FOR ACTIONS OF FR. JOSEPH R. ROMANO**

333. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

334. While he was a minor, Plaintiff was entrusted by his parents to the control of Defendants Roman Catholic Diocese of Albany, LaSalle School, Christian Brothers and Fr. Joseph R. Romano for the purposes of, *inter alia*, providing Plaintiff with appropriate guidance and opportunity to enjoy educational, religious and youth activities under reasonable adult supervision. During the times that Plaintiff was a student at the LaSalle School, he was under the supervision and control of Defendants. These Defendants owe and owed, a duty to children

entrusted to them, including Plaintiff, to act *in loco parentis* and to prevent foreseeable injuries.

335. Defendants breached their duty to act *in loco parentis*.

336. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

337. As a direct result of Defendants' conduct, Plaintiff has suffered the injuries and damages described herein.

338. By reason of the foregoing, Defendants are liable to Plaintiff jointly, severally and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SIXTEENTH CAUSE OF ACTION

**BREACH OF STATUTORY DUTY TO REPORT ABUSE UNDER SOC. SERV. LAW §§ 413, 420
AGAINST DEFENDANTS OFFICE OF NEW YORK CHILDREN AND FAMILY SERVICES, LASALLE
SCHOOL AND CHRISTIAN BROTHERS FOR ACTIONS OF CHARLES B. BURRELL**

339. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

340. Pursuant to the N.Y. Soc. Serv. Law §§ 413 and 420, Defendants had a statutorily imposed duty to report reasonable suspicion of abuse of children in their care.

341. Defendants breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Charles B. Burrell of children within their care.

342. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages described herein.

343. By reason of the foregoing, Defendants jointly, severally and/or in the alternative, are liable to plaintiff for compensatory damages and for punitive damages together with interest and costs.

SEVENTEENTH CAUSE OF ACTION**BREACH OF STATUTORY DUTY TO REPORT ABUSE UNDER SOC. SERV. LAW §§ 413, 420
AGAINST DEFENDANTS ROMAN CATHOLIC DIOCESE OF ALBANY, LASALLE SCHOOL,
CHRISTIAN BROTHERS AND FR. JOSEPH R. ROMANO FOR ACTIONS OF FR. JOSEPH R. ROMANO**

344. Plaintiff realleges and incorporates all previous paragraphs as if set forth fully herein.

345. Pursuant to the N.Y. Soc. Serv. Law §§ 413 and 420, Defendants had a statutorily imposed duty to report reasonable suspicion of abuse of children in their care.

346. Defendants breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Fr. Joseph R. Romano of children within their care.

347. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages described herein.

348. By reason of the foregoing, Defendants jointly, severally and/or in the alternative, are liable to plaintiff for compensatory damages and for punitive damages together with interest and costs.

WHEREFORE Plaintiff demands judgements against Defendants on each cause of action as follows:

A. Awarding compensatory damages in an amount to be proved at trial but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;

B. Awarding punitive damages to the extent permitted by law;

C. Awarding prejudgment interest to the extent permitted by law;

D. Awarding costs and fees of this action, including attorneys' fees to the extent permitted by law;

E. Awarding such other and further relief as to this Court may seem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

Dated: November 12, 2019

Respectfully Submitted



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Attorneys for Plaintiff

ATTORNEY VERIFICATION

STATE OF IDAHO)
 (ss
County of Kootenai)

CRAIG K. VERNON, an attorney duly admitted to practice in the State of New York, affirms under penalty of perjury that he has read the foregoing COMPLAINT and knows the contents thereof; that the same is true to the affirmant's own knowledge, except as to those matters therein stated to be on information and belief and as to these matters, affirmant believes them to be true.

The undersigned further states that the reason this affirmation is made by the affirmant and not by the Plaintiff is that the Plaintiff resides in a county other than the county in which affirmant maintains his office.

The grounds of affirmant's belief as to all matters not stated to be on affirmant's knowledge are as follows: Discussions with the client following the client's review and approval of the Complaint, as well as investigations and records in the file.

Dated: November 12, 2019



CRAIG K. VERNON